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THE ISSUE IN MEXICO

DISCUSSED BY

MR. GUY STEVENS

SENATOR SANTIAGO IGLESIAS

and

MR. HEBERTO M. SEIN

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NEW YORK CITY

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MR. JAMES G. McDONALD, Chairman

SPEAKERS' TABLE

Mr. Justo Acevedo	Mr. George W. Knoblauch
Mr. G. I. Babcock	Mrs. Simon Kuhn
Mr. John Balinski	Mr. Spencer Miller, Jr.
Mr. Jose Miguel Bejarano	Mr. Howard T. Oliver
Mr. Henry Bruere	Mr. George Foster Peabody
Mr. Northrop Clarey	Gen. Palmer E. Pierce
Mr. L. J. de Bekker	Mr. S. K. Ratcliffe
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THE ISSUE IN MEXICO

MR. JAMES McDONALD, *Chairman*

THE first speaker today is Mr. Guy Stevens, who represents the oil producers in Mexico, as Director of the Association of Producers of Petroleum in Mexico.

We are especially glad that we can offer you as authoritative an interpreter of one point of view about this problem. Mr. Stevens. [Applause.]

MR. GUY STEVENS

MR. CHAIRMAN, Ladies and Gentlemen: The subject to be considered on this occasion has been very accurately and very happily stated in the printed announcement, "The Issue in Mexico." It is not, as some would perhaps have us believe, an issue which has been created outside of Mexico, or raised against Mexico by imperialistic governments and predatory corporations. It is an issue of Mexico's own making. The acts and policies out of which the issue arises are all Mexican. The solution lies in Mexico's own hands. So with practically the whole series of issues which for the past decade have kept almost constantly before the world a Mexican question. If today, for example, we were to consider all of the issues which go to make up the present Mexican question, we should have to consider Mexico's agrarian policy, the labor situation, political conditions, the church controversy and many other matters. But we should find in every case that the issue is one of Mexico's own making and the solution lies in Mexico's own hands.

Today, however, we are to confine ourselves to that particular issue which arises out of the recent enactment in Mexico of two laws: One, known as the Alien Land Law¹; the other, as the Petroleum Law.² In our consideration of these two laws, oil and oil rights must necessarily occupy a prominent place. Large parts of the oil fields lie within a zone, foreign ownership in which is undertaken to be controlled by the new Alien Land Law. The Petroleum Law of course refers wholly to oil and oil rights. But this is not altogether in my opinion a misfortune. The Mexican oil question for some reason has been kept very much in the forefront of Mexican affairs for the past ten years, as responsible in some way for most of Mexico's ills and most of Mexico's issues. It has sometimes been referred to for the obvious purpose of creating prejudices through which the facts might be obscured or distorted. But perhaps we shall find, even though the subject of our consideration be oil, that when the facts are brought before us, unobscured and in proper focus, the same principles of law and equity which put the right in the other rights which we respect, put the right also into oil rights.

Each of these laws is called in Mexican terminology an organic or regulatory law. The meaning of that term may perhaps be clarified by referring to one of our own well-known laws. The Volstead Law, for example, would in Mexican terminology be called an organic or regulatory law of the Eighteenth Amendment. The function of an organic or regulatory

¹See pp. 25 *et seq.* for text.

²See pp. 27 *et seq.* for text.

law is to give effect to a provision of the constitution of the land. Each of these laws regulates or gives effect to a part of Article 27 of the Mexican Constitution of 1917, but each regulates an entirely distinct part of Article 27 and each, therefore, should be clearly distinguished from the other. Both of these laws may be regarded in my opinion as administration measures. We have been told through the press and otherwise that they are to be put into effect as promptly as possible. We may then fairly take them as representing the present Mexican Administration's attitude and policies upon these subjects. The Alien Land Law relates primarily to the holding by foreigners of different rights in land or real estate in Mexico through the medium of Mexican corporations. For instance, it provides that no foreigner may hereafter, through the medium of such a Mexican corporation, or otherwise, acquire any real estate ownership within certain prohibited zones, sixty-two miles or thereabouts along the frontiers and thirty-one miles or thereabouts along the sea coasts. It also provides that no more than a minority of the stock of any Mexican corporation possessing lands for agricultural purposes may be held by foreigners, either individual or corporate.

So much as to the future, but this law also applies (and this is considered the vice of the law under the rules of international law), to rights already held by such foreigners at the time of the passage of the law. For example, foreign individuals possessing at the time of the promulgation of this law, interests in Mexican corporations which come, or whose operations come, within the terms of this law, must dispose of those rights either within their own lifetime, or their heirs must dispose of them within approximately five years after their death.

And in the case of any of these rights in corporations possessing rural properties for agricultural purposes being held by a foreign corporation, such foreign corporation must dispose of all of its rights in excess of a minority inside of ten years.

Those are very briefly the features of the Alien Land Law which have been most prominently discussed. No one has raised any question as to the right of Mexico to legislate not only with respect to land holdings but with respect to all other matters so far as the future may be concerned. But the point to be noted in the Alien Land Law now under discussion is that it applies not only to future acquisitions but it affects in a substantial way interests already held at the time of its enactment.

For a correct understanding of the Petroleum Law, it is necessary to revert briefly to previous legislation on the subject of petroleum in Mexico. Mexico's first mining code was enacted by Congress in 1884.¹ That law was declaratory of the rights held respectively by private land owners and the nation in various mineral deposits. With respect to petroleum, that law specifically declared that the petroleum deposits beneath the surface are the exclusive property of the owner of the surface of the land and it went on to say that the surface owner by virtue of such ownership had the right freely without the necessity of any denouncement or other formality to develop utilize and dispose of the petroleum to be found within the boundaries of his land.

The law of 1884 was superseded by a similar one passed in 1892.² In

¹See pp. 22 *et seq.* for pertinent section of the law.

²See p. 24 for text.

1909,¹ a third similar mining code, superseding the second was passed and again as in 1884, the owner of the surface was declared to be the exclusive and complete owner of the petroleum deposits which might be found beneath the surface.

So when the American and other foreign oil producers went to Mexico, prior to 1917, for the purpose of acquiring petroleum properties, they found the way definitely pointed out to them by Mexican law. These laws said to them very distinctly: The only person who has any right to exploit the petroleum in the sub-soil and who therefore may grant the right to do so to others, is the owner of the surface land.

Accordingly, it was necessary for these foreign oil producers to put themselves in a position to exercise the rights thus conferred by Mexican law upon the land owner. This they did in one or the other of two ways: Either by purchasing the land outright and thereby becoming themselves both the surface and the sub-surface owners, or, by making leases with the Mexican owner, covering a right only to the petroleum.

It is very important for a correct understanding of the Mexican oil question, to realize that every one of the rights which is in question at the present time, is a right acquired prior to 1917, acquired strictly in conformity with Mexican laws then in force and that not one of these rights is held under any concession from the Mexican Government. These rights were acquired in every case in exactly the same way as I, if I wished to buy a home now today owned by one of you, would undertake to acquire that home. I would go to you, the individual, private owner of that home. I would sit down with you and determine upon the price. I would pay that price, and I would get my title, good under the existing law in the State of New York. We might follow through the analogy and state that if these oil rights and oil properties should be taken away from the people who have thus acquired them, under the Constitution of 1917 or this present law, the situation would be no different than would be the situation where today I should purchase from one of you a title to a home, good under today's New York law and tomorrow the State of New York should pass a law declaring, without any consultation with me and without offering me any compensation, that the home I purchased the day before now belongs completely to the State of New York itself.

In the course of the discussion of these questions which now constitute, we may perhaps say, the present issue in Mexico, the Mexican Government has stated that it has the complete right to legislate as it sees fit with respect to anything within her borders. In saying that, Mexico of course is referring to the Constitution of 1917, the effect of which upon petroleum rights acquired prior to the effective date of that Constitution, has already been illustrated, that is, Article 27 of the Constitution of 1917 declares that all petroleum in the sub-soil of any lands in Mexico belongs completely to the nation itself.

By a mere constitutional fiat, therefore, the ownership of these petroleum deposits and petroleum properties was in theory at least passed from the private owners who had purchased them to the nation itself.

The course of events between 1917 and the promulgation of the present law on December 31, need not necessarily be followed in detail. It will be sufficient for our present purposes to state that the actual

¹See p. 25 for text.

assertion of the nation's ownership was very largely held in abeyance during that period, but now by the passage of this new law, the nation's ownership is definitely asserted.

In the first article of the present law, that ownership is reiterated in substantially the words of the Constitution itself; and every provision of the new law is predicated upon such national ownership. Not a single right acquired prior to May 1, 1917, in any petroleum properties in Mexico is recognized in any way whatever. Every private title to petroleum properties in Mexico is destroyed. Complete ownership is considered as having been vested in the nation itself merely by the declaration of such ownership contained in the Constitution of 1917.

When Mexico states that she may legislate as she sees fit within her borders, we must bear in mind that a distinction ought to be drawn. In so far as what Mexico thus says may apply to future acquisitions, no one of course can raise any question whatever. Mexico has an undoubted right to determine how properties within her borders should be acquired in the future. But, on the other hand, (and this is what the entire question hangs on), it is considered not in accordance with recognized principles of international law, nor with the ordinary principles of equity, to go back and make the laws applicable to prior transactions in such a way as to affect the rights previously lawfully acquired under the laws of the very same country.

Mexico, or spokesmen for Mexico, have raised a good deal of objection at one time and another to the use of the word confiscation in connection with these laws and her Constitution of 1917. I have no desire to use offensive words to describe the situation and it matters not a bit to me whether this be called confiscation or what it be called so long as we understand what it is.

It is, as I have stated, a taking or an effort to take from people who were recognized previously under the laws of Mexico herself as the complete owners of this thing, the whole property and all the rights which they thus bought and paid for and lawfully acquired.

It is probable that in the aggregate, approximately one and one-half or two billions of dollars worth of foreign-owned properties are thus affected by these two laws. It is very likely that in this room are a great many whose properties or investments are affected by these laws, for it is almost certain that of the thousands of stockholders of these various corporations, oil and other, some are here. But in a broader sense, this matter relates not only to the rights of you and others in Mexico. It has a bearing which is very direct, possibly, upon all of our future foreign business and foreign investments. It is very easy to see that if a new rule should be established that a government can take away investments lawfully made in the manner now planned, it would have a very vital and serious effect upon foreign investments and foreign business everywhere. [Applause.]

MR. McDONALD: The next speaker is a fellow citizen of ours, Spanish language Secretary of the Pan-American Federation of Labor in Washington, a Porto Rican Senator, Senator Santiago Iglesias, who is going to speak to us for ten minutes on this problem. [Applause.]

SENATOR SANTIAGO IGLESIAS

THE issue in Mexico has once again been brought forcefully to the attention of the American people. Our Government has been engaged in a diplomatic controversy with the Mexican Government over the land and petroleum laws recently enacted by the Mexican Congress and promulgated by President Calles. Constant insinuations contained in some reports of the press, inspired by higher-up financial individuals of Mexico and the United States, suggest to our State Department the withdrawal of recognition of Mexico. Such insinuations are proving that those higher-up financiers are not playing fair either with the people of the United States, or with the people of Mexico. Sinister forces are hoping that the withdrawal of the recognition of Mexico will be followed by revocation of the embargo on arms. Then revolutions would break out and every mercenary "general" would be set loose on the path of destruction, bringing victory to "their right man" that facilitates unfair dealings.

Mexico has enacted some laws affecting land tenure and the ownership of oil and mineral bearing properties.

The United States charges that the new laws are retroactive and confiscatory, which means that they deprive American citizens of rights and interests already acquired under assumption of permanency.

Mexico retorts that this is not so. Mexico makes two very pointed statements in relation to the claim of the United States Government.

First—The laws are neither retroactive nor confiscatory. They do not take away acquired property. They do limit the acquirement of more property, but principally they provide that in relation to property rights in Mexico foreigners must resort to Mexican courts for settlement of disputes instead of calling upon their own governments as in the past.

Second—If the United States Government does believe the laws will work injustice, the time to protest is when the injustices occur and not now.

Both of these points have much weight.

In the United States, foreigners must seek redress for wrongs in American courts. We do not permit Mexicans to call on their government to "take stern measures" when a Mexican is aggrieved. Neither do we permit a Britisher, nor a Frenchman, nor a Japanese to do so.

The second point made by Mexico is equally good. If the United States is protesting just because it assumes that damage will be done, it is protesting before it has a specific case.

At the present time the answers and assurances given to the Government of the United States by the Government of Mexico seem to be fair and satisfactory, so that the legal property rights of the Americans will be amply protected by the new laws. Mexico, as well as other Latin American Republics is invaded by foreign capital, especially American capital. It has been repeatedly reported that Mexico has large potential wealth awaiting development and that a supply of capital is badly needed for the development of such wealth.

The United States is the richest nation in the world. We have in this country a truly amazing proportion of the world's circulating capital, and it is being exported to the five continents of the earth in the form of investments. The question is, how shall this power be used by the United States?

If American financiers have invaded Mexico as well as other Latin American nations, resulting in the domination of those countries and those peoples with investments instead of with military might, then somehow the people of the United States must think about what is the just share of the wealth resulting from this big business, which is to go to the peoples of those countries. And even the people must decide how that share is to be safeguarded for them and how they are to get it.

Surely, the whole result of exploitation cannot justly accrue to the invading capitalist. The invaded nations have rights, the peoples who are conquered by modern machinery have some rights which must be respected. Humanity has rights.

And we wonder again what proportion of their own natural wealth of the Latin American nations, is due to the people in whose lands it lies and how it is to be guaranteed to them when the capital, the initiative, the enterprises and the machinery of North America go to conquer it in the name of big business. There is the great question for the American people. How can it be solved so that there will be justice, so that wealth and machinery may be a blessing instead of a curse and a breeder of waste and wars.

Dr. Frank Bohn of the *New York Times* stated the other day "Americans have taken countless millions of dollars worth of Mexico's oil, gold and timber and we have not built one school to help repay Mexico for the gain."

The American people are friendly and sympathetic towards the Mexican people, not only because we are neighbors, but because gradually our people are becoming convinced that there is a deliberate attempt to prevent, or at least retard, the onward march of the Mexican people to economical, industrial and political levels and standards more in harmony with the enlightened principles and ideals of the present age. We would be untrue to our professed ideals of freedom and justice if we did not extend our sympathy and cooperation in the gallant fight Mexico is making for the achievement of the political and industrial freedom of her people.

The United States has attained a position of leadership and influence in world affairs of which the American people can well afford to be proud. The people of the United States cannot afford to remain uninterested and inactive when as a result of the conduct of American interests in foreign countries, there is danger of our reputation, as a free and democratic people, being impaired.

The Pan-American Federation of Labor now has twelve affiliated national labor movements. Soon it will have more. Through its persistent efforts there is a better understanding among the peoples on the American continents.

It has rendered great service in the cause of friendly and cordial relations between the United States and the Latin American Republics. American people are not responsible for, nor do they approve of the injuries those countries have suffered at the hands of American financial interests, nor are we responsible as a people for the attempts made to exert pressure in the management of their national affairs.

It is not enough, however, to disclaim responsibility. The origin of the suspicious attitude that has prevailed towards the United States among the Latin American countries is to be found in the feeling that we, as a nation, have no respect for the sovereign rights of the Latin American Republics when those rights stand in the way of the unscrupulous exploitation of their natural resources by American capital. To undo that wrong interpretation of the attitude of the United States we must not only profess, but act upon the theory and belief that Mexico and all the other Latin American countries have the same right of self-determination that we claim for ourselves.

MR. McDONALD: If Senator Iglesias speaks with such eloquence in English, I should like to hear him do it in Spanish. Senator Iglesias put one aspect of the case, I suppose we might say for Mexico. The other aspect of the case for Mexico, or one other aspect of it, will be put by a Mexican, Mr. Heberto Sein, who was formerly connected with the Mexican Consulate in New York City, and is a student of Mexican problems. Mr. Sein. [Applause.]

MR. HEBERTO SEIN

MR. CHAIRMAN, Ladies and Gentlemen: We are met here to consider two laws recently passed by the Congress of the Republic of Mexico, and to consider the welfare of the Mexican people as affected by these laws. By means of a sympathetic understanding of Mexico's upward struggle, we must keep in our minds the picture of the economic, social and political conditions in Mexico that give birth to this particular expression of the hope, purpose and determination of the Mexican people. These acts are not to be considered as isolated, as unrelated to the series of events in modern Mexico. They are but one step in our upward march. Mexico has passed through a rebirth. It will not be long, indeed the hour is here now when the world is cognizant of the fact that a social rebirth has taken place in Mexico. Therefore, as a young Mexican, I am glad indeed to speak on behalf of this Mexico that has passed through a rebirth and of a Mexico that will not yield in its upward struggle to achieve, by its own efforts, freedom, economic and industrial justice, education, and a flourishing development of the arts of peace.

We are struggling upward from conditions of poverty, of misery, of human and moral degradation to conditions of human dignity, social welfare and a high position of mutual respect among the other nations of the world.

The undue excitement and the unjust protests attendant upon these acts of Mexico have served to show clearly to the American people what to my people is a matter of common knowledge, that is, that at the bot-

tom of much of the current slandering of Mexico, are American oil interests. American oil interests are also at the bottom of the threats of the Secretary of State last summer, at the bottom of a continued series of difficulties framed up to embarrass the Mexican Government, and at the bottom of the recent protest against these laws.

With due respect for the learned exposition of the issue by Mr. Stevens on behalf of the oil interests, I wish to point out that he made certain statements that contain a significant misrepresentation of the case.

He stated that this issue is of Mexico's own making and inferred that all our troubles were of Mexico's own making. Every student of Mexican affairs well knows that the conduct of American interests in Mexico has not always been perfectly righteous. You need only read the documents published by the Department of State of this Government to learn of the evil conduct at times observed by American oil interests in my country.

Furthermore, the principle of law involved in the mining code of 1884 was not properly represented by Mr. Stevens. The mining law of 1884, as those of 1892 and 1909, gave the owner of the surface the right if exercised to acquire ownership of the sub-soil. This interpretation, you will see, is well brought out by the five Amparo cases decided by the Supreme Court of Mexico. In other words, if the owner of the surface made no positive act to discover or to bring forth the treasure of oil or mineral in the sub-soil, there is no actual possession of that sub-soil.

Mr. Stevens also stated that every title acquired prior to 1917 is destroyed by the Constitution of Mexico now. Indeed it is not so. The Mexican Constitution guarantees rights legitimately acquired prior to 1917. The essential and legitimate rights are fully guaranteed by the Constitution and by its interpretation as given by the Supreme Court of Mexico.

Let us turn to these laws that have been protested. The Alien Land Law provides that within a zone 100 kilometers, or sixty-two miles, along the national boundaries, and fifty-two kilometers along the coast lines, no foreigner shall acquire ownership of lands. No one can dispute Mexico's right to establish this law and furthermore, it is not new. It is not an anti-foreign measure. It is simply the reaffirmation and the enforcement of an old principle coming down from colonial times. Notice how liberal the law is to foreigners holding lands at present in that prohibited zone. The foreigner may continue owning the land throughout his lifetime, thereby his right is not confiscated or nullified. His right to give that land to his heirs is also recognized. The heir comes into possession of that property but must dispose of it within a liberal period of five years. The law also provides that in order to acquire ownership elsewhere, that is, out of that prohibited zone, or to acquire stock in a corporation owning lands or to acquire any concession to develop natural resources, a foreigner must sign a pledge that in any question affecting the ownership of such property, he will forego the privilege of appealing to his own Government and will submit his claim, in so far as it affects the property, to the laws and courts of Mexico. Violation of the pledge will result in forfeiture of his rights to the Government.

Again notice the liberal spirit of the law. Foreigners already owning property shall not be required to sign the pledge, but their heirs must either sign it, or become Mexican citizens by naturalization, or dispose of the property within five years. No one can deny that all sovereign powers have the undisputed power to legislate as they may deem fit in the matter of land ownership within their jurisdiction, with due consideration for the legitimate rights of individuals. The lands and properties within the limits of national territory belong originally to the nation. The nation may transfer the ownership to individuals or corporations and has the right to determine the requirements for such transference of ownership.

The remaining provisions of the Alien Land Act require briefly that fifty per cent or more of the stock of any company owning land shall not be acquired by aliens. Again the liberal spirit of the law. However, an alien already holding stock in excess of that possession may keep it until death or a corporation may keep it for ten years. Contracts previously made by the Government are not affected. The purpose of this clause is to insure to Mexican citizens an adequate supply of agricultural land. Foreigners owning any property rights in Mexico shall within a year after the publication of this law give to the Government a statement of such ownership in order to afford a complete official registry. Those failing to comply shall be deemed to have acquired the property after the passage of the law and hence be subject to its provisions.

It is inconceivable that even a provision like this, calling for registration of property, has been protested by the State Department. But it may be significant of the fear that if there are parties holding shadowy titles to property, such holdings would not stand the searchlight of an official registration of that property in the offices of the Mexican Government.

The Petroleum Act provides that the ownership of all mineral fuels of the earth is vested in the nation which shall grant concessions to persons and corporations desiring to exploit such sub-soil treasures. Such development shall be carried out under regulations designed to secure proper development, the prevention of waste, and the maintenance of sanitary conditions. Owners already having begun development shall receive the concessions for the use of sub-soil rights for a period of fifty years with the privilege of renewal for another fifty years. Concessions shall be granted without charge and subject only to normal taxes, the payment of the existing scale of royalties, and proper regulation.

It has been charged that these laws are confiscatory but not a single case of confiscation under them can be cited. It has been charged that these laws are retroactive but not a single case can be cited, wherein the essential, legitimate rights are not respected.

It has been complained that the pledge required of a foreigner before he can acquire property, impairs his status as a foreigner and renders him a national in regard to his property. True enough! Can any one dispute the right of Mexico to establish such requirements? Can any one doubt the justice of it? Are not similar requirements existing in this country? Do they not go further? Are not foreigners required to take out first papers in some States and even second papers in others before

they can acquire lands within the United States? Furthermore, a country good enough to own lands in and to derive wealth from its soil and the labor of its people is a country good enough to become a full-fledged citizen thereof.

If the interest of the American oil corporations in the welfare of the Mexican people is so great, why do not these American oil millionaires become citizens of Mexico and sincerely work for its good? [Applause.] Instead their conduct has been one of obstruction. They have even gone so far in their evil ways as to employ armed bandits to continue disturbance in the oil region and thus obstruct the enforcement of Mexico's laws, and this has been done with full knowledge and even the approval of the State Department of this nation.

The rumor calls for confirmation of my statement. You will find it, ladies and gentlemen, on page 283 of the U. S. Senate Documents—*Investigation of Mexican Affairs*, wherein Mr. Doheny, representing the oil interests in Mexico stated that his company and the other American oil companies were paying tribute to the bandit Pelaez. Doheny's words are these, in answer to the question of the Chairman of the sub-Committee: "Has our State Department been aware of the fact you have been paying money to Pelaez?" Doheny: "Not only aware of it, but so far as they could, without giving it in writing, they have approved."

Mexico does not want to deprive the United States of oil. We have plenty of it and we shall share it with you, but we insist that foreigners in Mexico comply fully with the Mexican law, in its spirit, and as interpreted by the Supreme Court of our land. There is a certain failure of Americans in Mexico to feel a sympathy with my people in their upward struggle. Few of your citizens that go to Mexico become citizens of our land, yet, they possess land there and derive wealth from our soil and the labor of our people. A little trouble happens, and they are quick to slander our country. And yet, among hundreds of Americans in Mexico, you will find that when their minds and hearts have opened with sympathy to an understanding of our upward march, they have become the staunchest friends the Mexican people have.

The protest of the Secretary of State against these two laws of Mexico is expressive of the policy of the American oil interests. It is altogether ungrounded but very significant. It is ungrounded because there is no actual case of confiscation, there is no actual case of retroactivity. The protest is untimely because the articles to regulate the operation of these two Acts are still in the process of enactment. The fair-mindedness of the Mexican Government is seen in its act of inviting representatives of the American oil interests to conferences in which to form these regulations in detail. But the protest is very significant because it shows the readiness with which the State Department bespeaks the interest of American oil millionaires even when at variance with the sentiment of American people expressed in the press of the country. It is significant because it recalls a like protest of the State Department in January, 1917, against Article 27, while it was still being enacted by the Constitutional Congress. That was a serious and unjustifiable attempt to interfere and tamper with the constitution of a free nation. Would your country stand for such a thing?

The protest is significant because it has stirred all Latin American countries to be on their guard against similar interference on the part of the American Government or American interests and it is further significant because oppressed peoples in other continents are taking hope in Mexico's upward struggle. They seem to see in Mexico an answer to their deepest desire. Can a poor, oppressed, exploited nation achieve freedom and happiness in the presence of the mighty and wealthy? You will soon forget the defense made here of these laws, but, my friends, the world can never forget now the ideals of the Mexican Constitution of 1917 and the spirit with which the Mexican people have been fighting in these years of victorious struggling.

I thank you! [Applause.]

MR. McDONALD: I have the impression that Mr. Sein and Mr. Stevens do not agree in every detail. I also have the painful duty of reminding Mr. Sein that he took three minutes more than his allotted time and that therefore, instead of Mr. Stevens having a bare five minutes for reply at this time, we are going to give him between eight and nine. That will hold the balance quite even. After Mr. Stevens has finished, the meeting is open for questions and discussion.

MR. STEVENS: The discussion today in my opinion indicates the difficulty of getting an accurate understanding of what the situation is. I have been charged with misrepresentation. I am not going to use the same term. It is evident, however, that we are expressing ourselves on some points either not fully or in somewhat different language.

Let me approach first, perhaps, the most outstanding statement of my friend, that the American oil companies made payments to the bandit Pelaez with the knowledge of the American State Department. That statement, if you leave out the word "bandit" is correct. They did do that, but they did it also at that time, as the testimony from which the excerpt was read shows, with the knowledge and approval of Carranza's official representative in Washington, who told the oil companies that they must do it because the Carranza Government was incapable at that time of maintaining order in the oil fields. [Applause.]

And as for Pelaez being a bandit, he was incorporated and has held a commission in the army under President Obregon since this banditry was committed.

That, however, in my opinion, is one of the side issues, if it may be termed an issue, which very frequently is raised to becloud the real issue.

My friend has stated that these laws are neither retroactive nor confiscatory. He did not indicate what he meant by non-retroactivity and non-confiscation. I have stated to you what in my opinion (and I believe that an examination of these laws carefully will confirm it) is the effect upon previously acquired properties and rights of these laws. If to take that which belongs to me today lawfully, by a mere constitutional fiat or statute of the Congress, without compensation, is not giving retroactive effect to those measures, if it does not involve confiscation, then my friend is right, there is no retroactivity, there is no confiscation in these laws. But, if I am entitled to what I have lawfully acquired under the

Mexican laws today, in spite of the effort of the Mexican Government to take it from me tomorrow without compensation, then there is retroactivity and there is confiscation.

Secretary of State Hughes said in a speech on June 7, 1921, that if the provisions of the Constitution of 1917 were given effect retroactively, the properties of American citizens would be confiscated upon a great scale and he added, "This would constitute an international wrong of the gravest character." That in my judgment is the effect of these laws. Moreover, the terms of the statutes in effect prior to 1917 did not refer to *derechos facultativos*. The words in the statute of 1909, under which most of these properties and rights were acquired, are, in Spanish, *propiedad exclusiva*, exclusive property. Not a right, not something that some one else has a remainder in or a claim upon, but a property, exclusive, complete, vested at that time. And such was the opinion of the most eminent members of the Mexican Bar itself, pronounced after a thorough investigation of the rights in petroleum deposits in the meeting of the Academy of Jurisprudence in that country in 1905.

My friend has mentioned the theory of positive acts and the Texas Company and other Amparo cases. The terms of this present law ignore completely the principles established by the Mexican Supreme Court in those decisions. Those decisions were interpretative of the Constitutional Article 27 and other Articles. If those decisions had been rendered interpreting the Constitution of the United States, they would be binding, they would be respected. Recently, the attention of the Mexican officials, some of them, has been called to the fact that these laws, in addition to violating the principles of international law and the pre-recognition agreements made in Mexico City in 1923, are in conflict also with the decisions of its own Supreme Court interpreting its Constitution. Mexican officials have stated that those decisions can have no bearing upon this matter because these laws were passed after those decisions were rendered.

But even to the extent that those decisions of the Mexican Supreme Court purported, by an application of Article 14 of the Mexican Constitution, to recognize certain limited rights acquired prior to May, 1917, every one of those rights is swept away by this new law.

Now it is stated to us that our protests have been premature because the regulations of these laws have not been issued. In a formal statement made some time ago by the Secretary of Foreign Affairs in Mexico, he expressly declared that the President of the Republic has no power to change the terms of this law. The provisions of this law are required by the Constitution.

It happens that our Secretary of State, Mr. Frelinghuysen, in 1885, sent instructions to our Minister in Mexico upon another matter, and he said, "When a sovereign acts contrary to the provisions of public law, that is, international law, he cannot seek a justification in the terms of the local law." Interpreted and applied to this situation, that means that the fact that the Constitution of 1917 provides for this measure, does not at all furnish a justification under international law for putting this law into effect. This law is on the statute books and we have the authoritative statement of one of the Cabinet Members of the Mexican Government that the President has no power to change its terms.

With reference to this protest being premature, let me call attention to the fact that one of the leading Mexican newspapers about a month ago in commenting upon a proposal made in the United States Congress, not even by a bill being introduced but an informal proposal to put immigration from Mexico upon a quota basis, stated, "We think our Government should intervene before this becomes a law." [Applause.]

MR. McDONALD: Now the meeting is open for questions and discussion.

MR. WILLIAM J. DEAN: I would like to ask Mr. Stevens whether the Constitution, the 1857 Constitution, had adequate and just provision for compensation in case property was taken away and whether the present Constitution has a provision of that sort.

MR. STEVENS: Each Constitution, that of 1857 and that of 1917, contained a provision substantially to this effect: Private property may not be taken except for public purposes and upon the payment of just compensation.

DR. J. H. LATHROP: Would Mr. Stevens explain his interpretation of the word "confiscation" and would it not include an extreme form of inheritance tax?

MR. STEVENS: That is rather a difficult question to understand for me and I may not have caught the exact point intended, but courts in this country have repeatedly stated that although normally taxes may be levied, whatever their nature, without any confiscation being involved, they may become so oppressive at times that they will involve confiscation. But the normal thing is (and we would expect it, of course) that if any tax got to the point where it did become confiscatory, we should be protected against its confiscatory application.

DR. HARRY W. LAIDLER: May I ask both speakers whether the law of 1884 was consistent with the provisions in the 1857 Constitution in reference to sub-soil treasures?

MR. SEIN: The law of 1884, known as the mining code of Mexico, was issued by the Mexican Congress, while the Constitution of 1857 was in effect. The opinion of jurists in Mexico is divided as to the consistency of that mining code with the Constitution of 1857. An old principle, coming from Spanish times, is the principle that the sub-soil belongs to the nation. The mining code did not contain expressly that principle but gave the surface owner the *derecho facultativo* to the sub-soil.

MR. McDONALD: Have you a different interpretation, Mr. Stevens?

MR. STEVENS: In my opinion, we have ample authority for the statement that the mining codes of 1884, 1892 and 1909 were in all respects consistent with the provisions of the Constitution of 1857. There was no express provision in the Constitution of 1857 with reference to the ownership of the petroleum in the sub-soil. Moreover, at the same meeting of the Academy of Jurisprudence in Mexico in 1905, the question of the rights to sub-soil deposits under the Spanish laws was taken up and

considered. The overwhelming opinion of the most eminent civil jurists upon that question is that there was always a distinction under Spanish law, and that distinction came down into the Mexican law, between metalliferous and non-metalliferous minerals. Coal, for instance, from time immemorial has expressly been recognized by the decrees of the Spanish kings as belonging completely to the surface owners and the opinion of the eminent jurists is that petroleum, which was not known, of course, at those times, follows the same course because of the distinction between metalliferous and non-metalliferous minerals.

MR. CHASE: I would like to ask of both speakers whether the question doesn't come down to this: That American business is penetrating into Mexico to an extent which seems to the Mexican Government formidable and is it not therefore possible or likely or true that the Mexican Government is seeking to prevent its becoming more formidable.

MR. SEIN: We Mexicans recognize that American investments in Mexico are increasing tremendously and that in spite, or rather, because of this definite new legislation they shall continue to increase. To safeguard our sovereignty, of course, we must see to it that foreigners in Mexico become identified in spirit with our aim as a nation or else that they become Mexican citizens, which is quite well desired.

MR. STEVENS: I hardly think the question comes down to that. There has been, of course, a great deal of American capital invested in Mexico and I think it is quite within the bounds of truth to state that practically all of the economic and social development which has taken place in Mexico in the last quarter century can be traced to foreign capital and foreign enterprise. But the significant thing to me has always been that in all of the discussion of the provisions of the Constitution of 1917, no spokesman on behalf of the Mexican Government has as yet pointed out any way at all in which the Mexican people as a whole were to be benefited by the national ownership of these sub-soil deposits.

JUDGE FEUILLE: I ask the question of the two gentlemen: Is it not a fact that under the Mexican Constitution of 1857, mining legislation was exclusively the privilege of the sovereign States of Mexico and it was under the amendment to the Constitution of 1883 that the National Mining Code was made and that that code at the same time declared that the owner of the soil was the owner of the petroleum in it—that the Mexican National Government was the owner of the other substances?

MR. STEVENS: My understanding of the question is that the law of 1884 was based upon an amendment to the Constitution of 1857 made in 1883 which specifically gave the Congress and the Federation authority to legislate with respect to these minerals and defining to some extent the rights in them. My answer to that is in the affirmative.

MR. SEIN: My answer to this question was included in the answer to a similar question. In other words, the Mining Code of 1884 was enacted under the existence of the Constitution of 1857.

MR. BALDWIN: I would like to ask Mr. Stevens if he considers this law confiscatory, that is, the law which requires the heirs to dispose of

it between five and ten years? How in any other way could the peasants on the land ever get it?

MR. STEVENS: I should a little rather not continue to use the word confiscatory. I think I have explained what I understand to be the meaning of the law and I would rather each of you should judge as to whether we do, justifiably or otherwise, use that somewhat objectionable word "confiscatory" in connection with the description of the operation of this law. In the operation of the law, when these properties must be disposed of, it is provided the properties shall be put up to auction. Of course, the purchasers are restricted to Mexicans. One of the most important questions involved is probably whether in the case of any property at any time being put up to auction under this law, Mexican capital would be forthcoming in such a way as to make any kind of a reasonable market for that property.

MR. RALPH W. BROWN: I would like to ask Mr. Stevens two non-legalistic questions: First, what percentage of the mineral resources of Mexico, approximately, is owned by foreigners; and second, if as stated by Mr. Stevens, the foreign holdings are worth two billion dollars, how much did the foreigners pay for them?

MR. STEVENS: The estimates which I gave of the investments likely to be affected by the application of these two laws were obtained from various sources. I have obtained from time to time such figures as I could and have put them together, making an aggregate for all foreign-owned properties of all kinds likely to be affected by these laws at from perhaps a billion and a half to two billion dollars. In so far as the petroleum properties are concerned and the investments in them are included in this estimate, those figures are taken from official Mexican Government figures of actual investment, money put in. Not only do those figures relate to money actually put in, but as I undertook to explain before, all of the bargains for these petroleum properties were made voluntarily with the land owners and whatever was paid for them was what the land owner was willing to sell them for, just as would be the case in this country. Furthermore, most of those owners, practically all of them under leases, have continuously received a percentage of the oil or its equivalent in money as a royalty and you may be interested in knowing that exclusive of all of the numerous other taxes paid by the oil companies to Mexico, the oil companies have paid production and export taxes alone upon the petroleum taken out during the past five years amounting to approximately \$155,000,000 in gold.

MR. McDONALD: I have a question here which reads: Are there other clauses in the Constitution of 1917 making toward nationalization of other things than oil or land?

MR. SEIN: The Mexican Constitution of 1917 considers church property as national property. Church buildings or religious edifices are considered as belonging to the nation.

DR. ROMAN: I would like to ask Mr. Stevens if he would consider it unjust on the part of the Mexican State or any sovereign power, if they passed a law whereby from now on they would take the entire socially unearned increment for the State?

MR. STEVENS: I have heard the term "unearned increment" nearly all my life. I do not know yet what it means. If the taking of what is called an unearned increment means the taking of that which under our present common conception of things belongs to the man who has put his money and his energy into the development of the thing, I say undoubtedly it is wrong.

MR. GEORGE W. ALGER: I would like to ask Mr. Stevens whether the Supreme Court of Mexico is not the proper and final source of interpretation of Mexican law, and therefore is not the attitude of the State Department and perhaps of the American interests premature in protesting against legislation before the Supreme Court of Mexico has had opportunity to decide whether such law is constitutional under the Mexican law or violative of the accepted principles of international law?

MR. STEVENS: Briefly, my answer to each question is in the negative. The Supreme Court of Mexico is not the proper tribunal to interpret, nor does it undertake to interpret the rules of international law as applicable to this or any other case. A very eminent jurist, a writer upon international law, has stated that when a nation puts itself outside of international law, refuses to recognize the principles of international law, it thereby puts itself outside of the circle of civilized nations. I think myself that language is a little too strong. My interpretation of it would be that it tends to disrupt the friendly course of dealing among nations if you find one of them who is not willing to accept and abide by the principles of international law.

Another reason why the protests are not premature is because we know what the law says. Upon the written record, the confiscation of these properties has taken effect. If you want a test of that just apply this one: Suppose you had owned some petroleum rights or properties in Mexico before 1917 and suppose now you should undertake to sell them to somebody. Who will you find to buy them in the face of the declaration contained in Article 27 of the Constitution and in the fact of the provisions of this law, both of which state that those rights are not vested in you and you have no authority to dispose of those rights. We have had an international case in Holland, properties in the Dutch East Indies, where a protest finally made by the United States Government after the act had been done, was met with the reply that the protest was too late; it should have been made before the act was accomplished.

MISS ETZ: I would like to ask Mr. Stevens, whether it isn't true that if you had been a foreign owner of American slaves or a distillery stock-owner, you would have been deprived of the value of your property by law? Would not your Government, even if it had been the British Government, been unable to protest? In view of the alleged liberality of the Mexican laws, granting a period of time for the disposal of this property, don't you feel rather unfair to criticize Mexico or is it not bad taste to criticize Mexico?

MR. STEVENS: The question, I think, Mr. Chairman, was: Is it not in bad taste to criticize? I think that very largely it is always in bad taste to criticize. I regret the necessity of it as much as any of you. It seems difficult, however, to meet the issue we are considering without doing so to some extent.

Under both international law and local law and under the conception which every one of us has of the things that are right and moral and just, a clear distinction has always been drawn between such things as human slavery, intemperance and such mere things as property rights.

In the first place, therefore, such a thing as human slavery may be done away with and it is recognized under every law that it involves no confiscation in a legal sense.

In the same way, the question which some people or a majority of the people may consider a moral question, may be disposed of without involving confiscation. But that is not all to be said to distinguish the American and the Mexican cases. Mr. Lincoln did not say to the slaveholder, "The slave that you had yesterday is now my slave and I intend to work him and make a slave of him." He said, "He is nobody's slave," he is free.

The Eighteenth Amendment did not say to me, as a stockholder in a distillery, that the United States would take and run my distillery and pour out this liquor and sell it and make profit out of it. It said, "You may keep your distillery property, devote it to what purpose you may, but do not use it for distilling liquor."

On the other hand, the Mexican Government approaches us and says, "You have some very valuable and productive oil properties, that is to say, you did have, but now they are ours. [Applause.]

MR. MORAN: I want to ask a question of Senator Iglesias: In view of the fact that he has supported here the legislation, I want to ask him if the American Federation of Labor is going to encourage the Latin American countries connected with the Pan-American Federation of Labor, whether the Pan-American Federation of Labor is going to encourage other Latin American States to follow the American example.

SENATOR IGLESIAS: The Pan-American Federation of Labor could not in any way intervene with the general legislation of any nation but the Pan-American Federation of Labor, when a nation of Latin America has approved laws that seem to be just for the people of their nation, sustains those laws. In the case which we are discussing now, we are only taking the position, as well as the American Federation of Labor has taken, to save the rights of the people of Mexico to work out its own salvation by its own country.

MR. McDONALD: Dr. Inman, who is the Secretary of the Committee on Cooperation in Latin America, which is the clearing house body for the different evangelical missionary boards in Latin America, has asked for permission to make a statement about the missionary question.

DR. INMAN: I just want to correct a statement that Senator Iglesias quoted from Mr. Bohn, saying the United States had done nothing for Mexican education. That is probably true so far as American corporations are concerned but Mission Boards of the Protestant Churches of the United States, eleven in number, have some two hundred schools in Mexico at the present time, with thirteen thousand pupils. And I might say that the present Minister of Foreign Affairs of Mexico, the Hon. Araon Saenz was a student in one of those schools and I note

one of the speakers of the afternoon, Mr. Sein, was also, as have been a large number of the younger men now leaders in Mexican life.

These Mexican schools are going on with their work now according to cables that we have from Mexico just as they have been. There have been misleading statements in newspapers concerning this question. We have a cable from Mexico saying: "Facts misrepresented in press. No evangelical missionaries expelled nor schools closed."

Also there has been intimation in the press that the Protestant Missionary forces are bringing pressure to bear on the United States Government for intervention. That is not the case. They have been on record for years as opposed to military intervention and as far as the 1917 Constitution is concerned, a conference of mission boards recently held passed this: "This conference recommends to the various mission boards having work in Mexico that they make no representations at this time as to the status of foreign missionaries in Mexico to the Governments of Mexico or the United States. We feel it to be highly important that all foreign missionaries in Mexico observe the spirit of organic law regarding the exercise of ministerial function. We express the hope that these missionaries may discover ways and means by which within the constitutional provision they may be able to continue forwarding the interests of the evangelical missions."

I think that will clear a question which has been troubling many people because of press reports. In the first place, our American missionaries are not being molested as far as the Evangelical Church is concerned; and in the second place, we are not in favor of military intervention and our representatives are expecting to do their work within the laws of Mexico.

MR. McDONALD: Are there any corrections of Dr. Inman's statement? I am very anxious that I shouldn't seem to favor him in view of the fact that I was engaged with him in earlier days in Mexican matters. Is there any other statement now in point of reference to Evangelical Missionary Boards?

MR. MORAN: Under the Constitution of 1917, Article 4, foreign priests are not permitted to exercise their priestly functions in Mexico. The evangelical ministers are priests under my interpretation of the Constitution, therefore they are not in Mexico legally and are violating the Mexican law by being there.

MR. SEIN: One word first as to the nationalization of church property: This is not new. All of you who know the Constitution of 1857 will realize that the nation from that time began considering church property as belonging to the state. The Constitution of 1917 simply reaffirms and enforces that.

It is my understanding from personal observation that I made this summer in Mexico, in contact with the leading evangelical workers, that foreign evangelicals in Mexico are not exercising ministerial duties. The Evangelical Church in Mexico is governed and conducted by Mexicans, Mexican citizens by birth. There is friendliness and a spirit of co-operation and learning between Mexican Evangelicals and foreign Evangelicals in Mexico, but foreign Evangelicals are not if I understand the

situation correctly from my observations last summer, violating the Constitution.

MR. McDONALD: I wonder if I may ask both Mr. Stevens and Mr. Sein this question: What is their opinion as to what would constitute a fair, constructive policy which would settle the Mexican problem amicably for all times?

MR. STEVENS: I will make an attempt to express a few of my views: So far as the petroleum question is concerned, the petroleum companies in the past two or three years have made various efforts to accomplish just that thing.

Taking the broad question of all Mexican affairs, I would say this: Let us all consider first the welfare of the Mexican people as a whole. Let them have a free and a good government of their own. Let them make it as good as they can. Let us help Mexico for the sake of all the Mexican people to rise as rapidly as she can. Let us keep their welfare in mind all the time, realizing that there is a great opportunity for doing a tremendous good by bringing those people up to the standard of living where by right they ought to be, but let us remember that in all the history of all the ages a good has never yet been predicated upon a great moral and legal wrong.

MR. SEIN: First: Let Americans have faith in Mexico. We will do what is fair, we also can feel what is fair and just, and we can also be motivated by fairness.

Second: Principally to foreign interests who are merely wealth-seeking monopolies, hands off Mexico. And to the State Department, a more patient, friendly attitude in approaching all Mexican affairs.

For Mexico: Let us work our problems out in our way. In the long run, we will learn more. Do not try to impose your civilization or culture on us. We shall create our institutions of free government, we shall achieve education as good as yours, perhaps having phases different and better in some respects than yours. We shall achieve art, beauty. We shall have a free Mexico, a prosperous Mexico and a land more beautiful, if that can be.

[The Meeting Adjourned at 4 o'clock.]

APPENDIX

(FROM THE MINING LAW OF 1884)

GOVERNMENTAL DEPARTMENT OF PROMOTION, COLON-
IZATION, INDUSTRY AND COMMERCE
OF THE
REPUBLIC OF MEXICO

SECTION IV.

The President of the Republic has been pleased to address to me the following Decree:

Manuel Gonzales, Constitutional President of the United States of Mexico, makes known by these presents:

That in the exercise of the authority granted to the Executive by the Law of December 15, 1883, I have seen fit to issue the following:

MINING CODE OF THE UNITED STATES OF MEXICO

TITLE I.

Concerning Mines and Mine Ownership

Article 1. The following matters are subject to this Code:

- I. The mines and deposits (*criaderos*) of all inorganic substances which, in veins, blankets or masses of any shape constitute bodies whose composition differs from that of the country-rocks, such as gold, silver, copper, iron, manganese, lead, mercury, tin, antimony, zinc, sulphur, rock-salt, and all other analogous substances, the recovery of which demands mining operations.
- II. Placers of gold and platinum and their associated metals, and all precious stones used in jewelry.
- III. Reduction works and sites for their construction, the former term being held to mean all those industrial mining establishments, in which any of the substances contained in the material extracted from mines and places, as mentioned in the two preceding sub-divisions, are separated by any kind of process.
- IV. The waters extracted from the mines, and those needed for drinking purposes by the men and animals employed thereat, for motive power or for any other use in the mines or reduction-works.

Article 2. The mines and placers referred to in Sub-divisions I and II of the next preceding article form a piece of real estate distinct from the land in which, or beneath whose surface, they are situated, even though they may become the property of the owner of said land.

Article 3. Ownership of the mines, placers, reduction-works or waters referred to in Article 1, is acquired by virtue of discovery and denouncement, by means of a concession granted by the respective authority, in conformity with the rules and under the conditions hereinafter set out in this present Code.

Article 4. The law concedes to private parties, in conformity with the next preceding article, the ownership of mines for an unlimited period of time, under the condition of working and exploiting said mines according to the provisions of this Code and of such regulations as may be enacted for the execution thereof, for the purpose of providing for the preservation of the mines and for the safety of the operatives.

Article 5. All persons legally capable of acquiring real property within the Republic of Mexico may acquire the mines, placers, reduction-works and waters included under Article 1.

Article 6. Aliens may acquire mining property under the same terms and restrictions governing their acquisition, possession and transfer of common property as set out by the Laws of the Republic; and they shall be subject, like Mexicans, to the provisions of this Law and of any other laws which may be enacted relative to the subject of mining.

Article 7. Mining property acquired under this Code may be transferred freely, like any other real property, subject to the appertaining provisions of the existing legislation.

Article 8. Ownership of mines shall not lapse (*caduca*), save in the cases expressly stated in this present Code.

Article 9. The title-document of ownership of the properties to which the four sub-divisions of Article 1 refer, shall be an authenticated copy of the proceedings on the denouncement-file and the record of possession, which will be issued by the authorities or officials, under the terms set out in this Code.

Article 10. The following items are of the exclusive ownership of the owner of the land, who may therefore exploit and utilize them without the need of denouncement or of special adjudication:

- I. All measures of the different kinds of mineral coal.
- II. All rocks of the land, such as lime-stones, slates, porphyries, basalts, building stones, earths, clays, sands and other similar substances.
- III. All substances not specified in frac. II of Article 1, occurring in placer deposits such as residual iron ores, stream-tin and other alluvial metals.
- IV. All salts occurring on the surface, pure and salt-waters, either surface or underground, petroleum, gas wells and springs or hot and medicinal waters.

In the recovery of all said substances, however, the owner of the land will be subject in his operations to all police provisions and regulations, and in the exploitation of mineral coal and all other materials which demand excavation, he will be subject to the provisions of this Code which pertain to the conservation of the mines and to the safety of the operatives.

Article 11. The exploitation of mines and placers, the establishment and operation of reduction-works, and the utilization of the waters which, in conformity with Article 1, are the subject matter of this Law, are hereby declared to be of public utility.

(FROM THE MINING LAW OF JUNE 4, 1892)
DEPARTMENT OF PROMOTION, COLONIZATION AND
INDUSTRY
OF THE
REPUBLIC OF MEXICO

SECTION III.

The President of the Republic has seen fit to address to me the following Decree:
Porfirio Diaz, Constitutional President of the United States of Mexico, to
the inhabitants thereof, know ye:

That the Congress of the Union has seen fit to decree as follows:

The Congress of the United States of Mexico decrees

THE MINING LAW OF THE UNITED STATES OF MEXICO

TITLE I.

Concerning Mines and Mine Ownership

Article 1. The ownership of mines in the United States of Mexico shall be governed by the following bases, to be regulated by the Executive, in accordance with his Constitutional powers.

Article 2. The subject of this present Law are those substances which may not be exploited without a prior concession and those whose extraction demands operations which may endanger the lives of the operatives, the safety of the working and the stability of the ground.

Article 3. The mineral substances for the exploitation of which the corresponding concession is indispensable in every instance, are those to be enumerated hereunder, whatever may be the nature, shape and location of their respective ore bodies:

- A. Gold, platinum, silver, mercury, iron, excepting bog iron, residual iron ore, and the ochres exploited for coloring matter; lead, copper, tin, excepting stream-tin; zinc, antimony, nickel, cobalt, manganese, bismuth and arsenic, whether occurring in the native state or mineralized;
- B. Precious stones, rock salt and sulphur.

Article 4. The owner of the soil may exploit the following mineral substances freely and without the need of a special concession in any instance:

The mineral fuels. The mineral oils and waters. The rocks in general, which serve directly or as raw material for construction and ornament. The materials of the soil such as the earths, sands, and the clays of all kinds. The mineral substances excepted from concession in Article 3 of this Law, and in general all those not specified in the same aforesaid article.

The operations of surface or underground excavation demanded by the exploitation of any of said substances shall always be subject to the regulations which may be issued for the policing and safety of the mines.

Article 5. Mine ownership lawfully acquired and such as may be acquired in accordance with this Law shall be irrevocable and perpetual, by means of payment of the Federal property tax, in accordance with the provisions of the Law establishing said tax.

(FROM THE MINING LAW OF NOVEMBER 25, 1909)
DEPARTMENT OF PROMOTION, COLONIZATION AND
INDUSTRY
OF THE
REPUBLIC OF MEXICO

The President of the Republic has seen fit to address to me the following Decree:

Porfirio Diaz, Constitutional President of the United States of Mexico, to the inhabitants thereof, know ye:

That the Congress of the Union has seen fit to decree as follows:

The Congress of the United States of Mexico decrees

THE MINING LAW OF THE UNITED STATES OF MEXICO

CHAPTER I.

Concerning Mine Ownership and Its Attributes

Article 1. The following properties are of the direct ownership (*dominio directo*) of the Nation, and are subject to the provisions of this Law:

- I. The deposits of all inorganic substances which in veins, blanket ledges or bodies of any shape whatever constitute formations whose composition differs from that of the country rock, such as those containing gold, platinum, silver, copper, iron, cobalt, nickel, manganese, lead, mercury, tin, chromium, antimony, zinc and bismuth, as well as those containing sulphur, arsenic, tellurium, rock salt and precious stones;

- II. Placers of gold and platinum.

Article 2. The following are of the exclusive ownership of the owner of the soil:

- I. The measures or desposits of mineral fuels in all their forms and varieties;
- II. The measures or deposits of bituminous material;
- III. The measures or desposits of salts, efflorescing upon the surface;
- IV. The flows of surface or underground waters, subject to the provisions of the Common Law, and the special laws on waters, without abridgement of the provisions of Article 9;
- V. The country rocks and minerals of the soil, such as slate, porphyry, basalt and lime-stones, and the earths, sands and clays;
- VI. Bog iron and residual iron ores, stream-tin and the ochres.

Article 3. The provisions of the Civil Code of the Federal District relating to common property and its subdivisions are applicable to the government of mining property in everything not provided by this present Law.

TEXT OF
LAND LAW REGULATING SECTION I OF ARTICLE 27
OF THE
MEXICAN CONSTITUTION OF 1917¹

AS PASSED DECEMBER 23, 1925, AND PROMULGATED BY PUBLICATION IN
THE *Diario Oficial* ON JANUARY 21, 1926.

Article 1. No alien shall acquire direct ownership in lands and waters in a strip of one hundred kilometers along frontiers and of fifty on coasts nor be a share-

¹For text see *The Mexican Constitution of 1917 compared with The Constitution of 1857*, reprinted from the *Supplement to The Annals of the American Academy of Political and Social Science*, May, 1917.

holder in Mexican companies which may acquire such ownership in the same strip.

Article 2. In order that an alien may form part of a Mexican company which may have or may acquire ownership of lands, waters and their accessories, or concessions for the exploitation of mines, waters or combustible minerals in the territory of the Republic he shall satisfy the requirement set out in the same fraction 1 of Article 27 of the Constitution, to wit: That of agreeing before the Department of Foreign Relations to consider himself national in respect of the part of the property which pertains to him in the company, and not to invoke, in respect thereof, the protection of his Government with reference thereto under pain, in case of failing in the agreement, of losing for the benefit of the nation the property which he may have acquired or which he may acquire as a shareholder in the company in question.

Article 3. In the case of Mexican companies owning rural property for agricultural purposes the permit spoken of in the foregoing article shall not be granted when, through the acquisition to which the permit refers, there remains in the hands of aliens fifty per cent or more of the total interests of the company.

Article 4. Foreign persons who may represent since prior to the going into effect of this law fifty per cent or more of the total interest of any kind of companies owning rural property for agricultural purposes shall retain it until their death in the case of physical persons, or for ten years in the case of moral persons (corporations).

The provisions of this article shall not affect contracts of colonization concluded by the Federal Government prior to the going into effect of this law.

Article 5. The rights which are the object of the present law, not comprised in the foregoing article, and acquired legally by aliens prior to the going into effect thereof, shall be conserved by their present owners until their death.

Article 6. When an alien person should have to acquire by inheritance rights the acquisition of which might be prohibited to aliens by the law, the Department of Foreign Relations shall give permit in order that there may be made the adjudication and that there may be registered the respective deed. In case any alien person should have to have adjudicated to himself by virtue of a preexisting right acquired in good faith, a right to those which are prohibited to him by the law, the Department of Foreign Relations shall give the permit for such adjudication.

In both cases the permit shall be granted upon the condition of transferring the rights in question to a person with capacity under the law within a period of five years, counting from the date of the death of the author of the inheritance in the first case, or from the adjudication in the second.

Article 7. Aliens who may have any right of those which are the subject matter of this law, acquired before the going into effect of the same, shall make a declaration before the Department of Foreign Relations within the year following the date of the promulgation of the present law, upon the understanding that if this is not done it will be considered that the acquisition was made subsequent to the promulgation of this law.

Article 8. Executed acts and contracts made against the prohibition contained in this law shall be void with full right. Failure to comply with Articles 4 and 6 shall give rise to the auction of the property indicated therein.

Article 9. This law does not repeal the restrictions placed by special laws on alien persons to acquire rights within the territory of the Republic.

Article 10. For the effects of this law there shall not be considered as alienation of properties the leases of immovable property for a term greater than ten years to the extent which may be strictly necessary for the establishments or services with an industrial, mining, petroleum or other non-agricultural object on the part of the enterprise without prejudice to the provisions of the special laws.

Article 11. The Executive shall regulate the provisions of this law.

TRANSITORY

Article 1. This law shall commence to take effect from date of its promulgation.

TEXT OF PETROLEUM LAW

AS PASSED ON DECEMBER 18, 1925 AND PROMULGATED ON DECEMBER 31, 1925, BY PUBLICATION IN THE *Diario Oficial*.

Article 1. The ownership (*dominio directo*) of all natural mixtures of carbons of hydrogen which are found in their natural deposits, whatever may be the physical condition thereof, is vested in (*corresponde a*) the Nation. In this law is understood by the word "petroleum" all the natural mixtures of hydrocarbons of which it is composed, which are associated with it, or are derived from it.

Article 2. The direct dominion of the Nation, to which the preceding article refers, is inalienable and imprescriptible, and only with the express authorization of the Federal Executive, granted as provided in (*en los terminos*) this present law and its regulations, may the works required by the petroleum industry be carried out.

Article 3. The petroleum industry is of public utility; wherefore it shall enjoy preference as to any utilization of the surface of the land and in all cases in which the necessities of said industry require (it), the expropriation or occupation of the surface shall be admissible (*procedera*), having regard to (*mediante*) the corresponding legal indemnity.

The petroleum industry includes: the discovery, reduction to possession (*captacion*), conveyance by pipe lines, and refining of petroleum.

Article 4. Mexicans and civil and commercial companies (*sociedades*) constituted in conformity with Mexican laws, may obtain petroleum concessions upon compliance with the provisions of this law. Foreigners, in addition to the foregoing obligation, must comply beforehand with what is provided in Article 27 of the present Political Constitution.

Article 5. Rights derived from concessions granted in conformity with this law shall not be transferred wholly or in part to foreign Governments or rulers, nor shall such be admitted as associates or co-partners, nor shall any right whatever in them (*i. e.*, such rights) be created in their favor.

Article 6. Everything relating to the petroleum industry is of exclusive Federal jurisdiction.

Article 7. Concessions for exploration give to the concessionaire the right to execute works which have for their object the discovery of petroleum. The Department of Industry, Commerce and Labor shall grant said concessions and shall see to it (*vigilara*) that the obligations stipulated therein, in conformity with the following bases, are complied with:

- I. The concessionaire shall obtain from the surface owner (*superficialario*) within the first three months of the life of his concession, consent (*conformidad*) for the occupation of the lands as he may need, and shall execute with him special covenants in which the form of indemnification is stipulated;

- II. In case of the surface owner's opposition, the Department of Industry, Commerce and Labor shall have power to act as arbitrator, if the explorer and the surface owner agree. Otherwise, the Federal Executive shall determine upon the occupation or expropriation of the lands, in conformity with the necessities of the petroleum industry, a bond of the concessionaire having previously been furnished, which shall guarantee the indemnification to which the surface owner has a right, for losses and damages;
- III. The concessionaire must render to the said Department a quarterly report of the progress of his works and of the result of his exploitation;
- IV. Every two years the Department of Industry, Commerce and Labor shall convoke a board which shall determine (settle) the boundaries of the "explored zones" in the Republic. This board shall be composed of a representative of the said Department, one from the Department of Treasury and Public Credit and another from the petroleum concerns. Within the two years subsequent to the determination of the "explored zones," exploration concessions in other places shall bear the indication of being in the "new zone";
- V. During the period of exploration and for three months more, only the explorer shall have the right to present an application for a concession for the exploitation of petroleum claims within the explored zone;
- VI. The concessionaire must make, in the General Treasury of the Nation within the first month of the life of the concession, a guarantee deposit having regard to the importance and area of the zone which he desires to explore. The Department of Industry, Commerce and Labor will fix the amount of this deposit;
- VII. The duration of exploration concessions shall be from one to five years, at the discretion of the Department of Industry, Commerce and Labor, and in accordance with the area and importance of the conceded zone;
- VIII. The holder of an exploration concession shall have preference in obtaining a new one for an unprorogable period of five years upon the same zone provided he has complied with all the obligations imposed by this present Law; and,
- IX. Priority of an application gives preference right, other circumstances being equal, over later applications.

Article 8. Exploitation concessions will be granted upon application and give to the concessionaire the right to reduce to possession (*captar*) and enjoy (*aprovechar*) the petroleum. Priority of an application gives preference right, other circumstances being equal, over later applications. The Department of Industry, Commerce and Labor will grant said concessions and see to it that the obligations stipulated therein, in conformity with the following bases, are complied with:

- I. When the concessionaire of a petroleum claim is not the surface owner of the same, he must cede to the surface owner a minimum of five per cent of the gross production by way of indemnity.
- II. Within the exploitation zone the concessionaire shall have the right to establish all installations which the extraction, conveyance and storage of petroleum may require.
- III. Outside of the conceded zone the holder of an exploitation concession shall have the right to obtain concessions to lay pipe lines, build roads and make use of Federal waters upon compliance with the provisions of the relative laws.

- IV. Exploitation concessions in "new zone" shall give to concessionaires during such time as shall be fixed by the Board of Representatives to which Fraction IV of the preceding article refers, the right to secure a discount in the production tax, which shall be fixed by the same Board, at the same time that it determines the limits of the explored zones;
- V. Exploitation of a conceded zone may not be interrupted, except for a cause which, in the judgment of the Department of Industry, Commerce and Labor, is a justifiable one;
- VI. The Federal Executive shall regulate the exploitation of wells so as to prevent their premature exhaustion; and,
- VII. The life of a concession shall be not more than thirty years. At its termination a concessionaire who has fulfilled all his obligations may obtain a new one covering the same zone. The Department of Industry, Commerce and Labor shall establish the number of Agencies sufficient for the reception and handling of the denouncements of petroleum claims (*fundos*) in places where said Agencies may be necessary. Within the zone granted for exploitation, exploration concessions may be granted only to holders of the former (*de las primeras*).

Article 9. The Department of Industry, Commerce and Labor will grant concessions to establish oil pipe lines of public use and of private use. The former shall be used to transport the petroleum of whosoever requests it and those of private use to transport the concessionaire's petroleum. Concessions shall be subject to the following bases:

- I. Concessions for oil pipe lines of public use shall be granted to whoever satisfies the requirements established in Article 4.
- II. Concessions for oil pipe lines of public use, in addition to giving the concessionaire the right of occupation and expropriation to which Fraction II of Article 7 refers, shall be stimulated by the Federal Government by the granting of such exemptions as the Constitution permits.
- III. Concessions for oil pipe lines of private use shall be granted only to the holders of an exploration, exploitation or refining concession.
- IV. Concessions for oil pipe lines of private use shall entitle the holder to obtain easements for passage and for water pipe lines.
- V. Oil pipe lines must satisfy the conditions fixed by the exploitation regulations.
- VI. The construction of oil pipe lines to load petroleum directly on vessels on the open sea will not be permitted.
- VII. The operators of oil pipe lines be these either public or private shall be under the obligation of transporting the petroleum of the Federal Government to the extent of 20 per cent of the pipe line's capacity, and
- VIII. The Department of Industry, Commerce and Labor shall issue periodically tariffs for the transportation of petroleum by pipe line after having granted a hearing to the interested parties.

Article 10. The Department of Industry, Commerce and Labor shall grant concessions for the establishment of refineries and plants for the utilization of gas in accordance with the following bases:

- I. They will be granted to those parties who fulfill the requirements set out in Article 4.
- II. The concessionaires shall be subject to the health, safety and police

regulations for the preservation of the life and health of employees, workmen and residents of the vicinity, and

- III. The federation shall stimulate by all possible means, the petroleum refining industry and the utilization of gas.

Article 11. Petroleum concessions on land whose surface dominion corresponds to the Nation, will be granted in the form prescribed by this Law, and the concessionaire shall pay the corresponding indemnity for the use of the surface, in accordance with the regulations which may be issued to that end, in addition to the participation of the Federal Exchequer of such per cent of the gross products of exploitation as the respective concession specifies. It shall be established in the concession that the public services shall not be obstructed.

Article 12. Concessions granted by the Executive of the Nation, in accordance with previous laws, will be confirmed without any cost whatever subject to the provisions of this Law.

Article 13. The following rules shall be observed with respect to denouncements made pursuant to the provisions of the decrees of July 31 and August 8 and 12, 1918:

- I. When the title has not actually been issued and if in the respective denouncement proceedings no opposition was entered, the respective petroleum concessions shall be granted in conformity with the provisions of this Law, and
- II. If opposition did exist and the title has not actually been issued, the controversy having however been settled in accordance with the decrees of July 31 and August 8 and 12, 1918, the concession will be granted on the terms of this Law, to whoever may have been successful in it (*i. e.*, the controversy).

Article 14. The following rights will be confirmed without any cost whatever and by means of concessions granted in conformity with this Law:

- I. Those arising from (*que se deriven*) lands in which works of petroleum exploitation were begun prior to May 1, 1917.
- II. Those arising (*que se deriven*) from contracts made before May 1, 1917 by the surface owner or his successors in title for express purposes of exploitation of petroleum. The confirmation of these rights may not be granted for more than 50 years computed in the case of Fraction I, from the time the exploitation works began, and in the case of Fraction II, from the date upon which the contracts were made.
- III. To owners of pipe lines and refiners who are at present operating by virtue of a concession or authorization issued by the Department of Industry, Commerce and Labor, and as to what has reference to said concessions or authorizations.

Article 15. Confirmation of the rights to which Articles 12 and 14 of this Law refer, shall be applied for within the period of one year, computed from the date of the going into effect of this Law; that date having passed, said rights shall be considered as renounced and the rights whose confirmation has not been applied for shall have no effect whatever against the Federal Government.

Article 16. The Federal Executive shall designate reserve zones in free land (*en terreno libre*).

Article 17. Causes for the forfeiture of a concession are:

- I. Lack of actual (*regulares*) works in the form prescribed by this Law;
- II. Violation of the provisions of Article 5;
- III. Failure to make the guarantee deposit as established by Fractions II and VI of Article 7, and
- IV. Failure to pay the taxes of the Federation.

Article 18. Violations of this Law and its regulations which do not involve causes of forfeiture of the concession, will be punished by the Federal Executive with fines of from 100 to 5,000 pesos.

Article 19. All acts of the petroleum industry are considered as being mercantile. As relates to anything not provided for by this Law, they shall be governed by the Commercial Code and in a supplementary manner by the Civil Code of the Federal District.

Article 20. The taxes payable by the petroleum industry in accordance with the respective law shall be paid by all corporations, companies or private individuals engaged in said industry, whatever may be the character of the rights they may have over the deposits which they are exploiting. Consequently, for the purposes of this law all explorers and exploiters of petroleum and its derivatives will be upon an equal footing.

At the discretion of the Executive the taxes payable by the petroleum industry may be delivered in kind or in cash in accordance with the fiscal evaluation quoted on the date upon which said delivery is made.

A participation is granted to the States within whose boundaries the petroleum measures in production are located; said participation shall not be less than 10 per cent of the production tax as fixed annually by the General Congress in the Revenue Law, and in case of baldios lands, the State shall have a further participation of 30 per cent of those which correspond to the Federal Exchequer for the surface right. Of the participation corresponding to the States under both aforesaid headings, the Municipalities, in whose jurisdiction the petroleum wells are located, shall receive at least the tenth part of what the States obtain. The participation which corresponds to the States and to the Municipalities shall be paid by the taxpayers directly to the State, in accordance with the monthly liquidation of the Department of Treasury.

Article 21. The concessionaires as well as their successors in title shall submit to the measures taken by the Executive Power, in accordance with Article 28 of the Federal Constitution, to avoid the exaggerated rise in the price at which the products are sold in the country.

Article 22. The Federal Executive is empowered to issue all dispositions for the regulation of this law.

TRANSITORY

Article 1. This Law shall take effect from the date of its promulgation.

Article 2. All previous provisions in conflict with this law are hereby repealed.

Article 3. The regulations in force, provided they are not opposed to the present Law, shall continue while the new regulations subject to the latter are being issued.

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